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IN THE

Supreme Court of the United States

OCTOBER TERM 1938

No. 554

H. C. BORICK, JOSEPH R. GRUNDY and
J. R. EASTON,

Appellants,

v.

BOARD OF COMMISSIONERS of Everglades
Drainage District, etc., *et al.*,

Appellees.

APPEAL FROM DECREE OF SPECIALLY CONSTITUTED THREE
JUDGE DISTRICT COURT OF THE UNITED STATES FOR
THE NORTHERN DISTRICT OF FLORIDA.

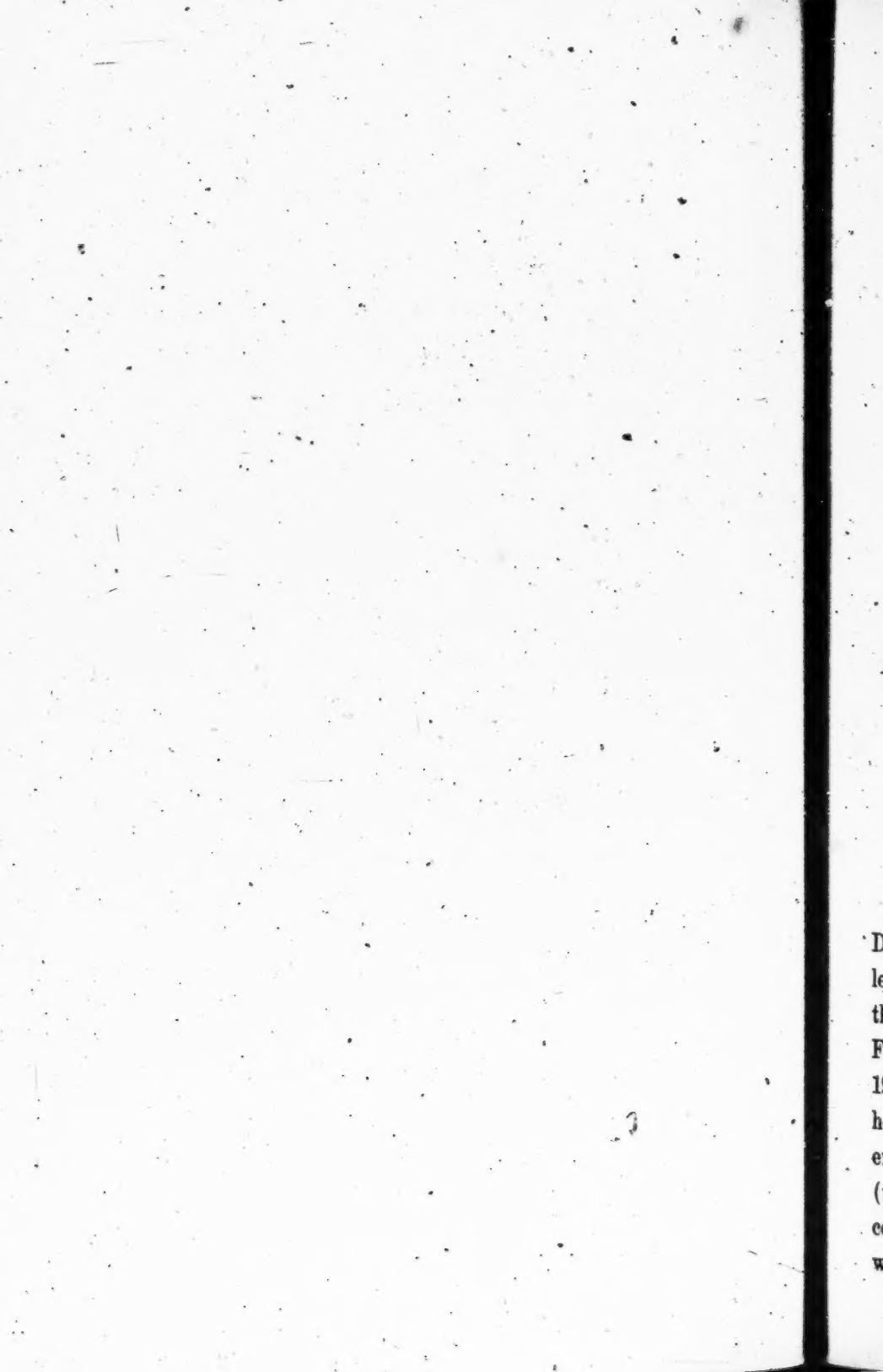
APPENDIX OF STATUTES TO
BRIEF FOR APPELLANTS

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Counsel for Appellants.



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The original statute creating Everglades Drainage District, authorizing the issue of bonds of the District and levying acreage taxes on the lands within the District for payment of the bonds, was Chapter 6456, Laws of Florida, 1913. As amended by statutes enacted in 1915, 1917 and 1919, the original statute is set forth under the heading "Everglades Drainage District" in Revised General Statutes of Florida, 1920, Secs. 1160-1188, pp. 702-749 (referred to herein as "R. G. S."). Subsequent to 1920, certain of these sections of the Revised General Statutes were further amended by statutes enacted in 1921, 1923

and 1925 which appellants hereinafter refer to and set out where they deem necessary. The foregoing sections of the Revised General Statutes of Florida of 1920, as so amended in 1921, 1923 and 1925, set forth the provisions of the Everglades statutes which were in effect during the time when bonds of the District were being issued. Since the above statutes, and also certain subsequently enacted statutes hereinafter referred to which latter statutes it is contended impair the obligation of appellants' bond contract, are long, appellants herein pursuant to Rule 27(f) of the Rules of the Supreme Court of the United States, set out in this appendix to their brief the statutes which are deemed by appellants to have an important bearing.

**Revised General Statutes of Florida of 1920,
Secs. 1160-1188, being Chapter 6456, Laws
of Florida, 1913 as Amended.**

Appellants first set out the original Everglades statute of 1913 (Chapter 6456) as amended, as set forth in Revised General Statutes of Florida, 1920, indicating and setting out where deemed necessary, the corresponding provision of Chapter 6456 of 1913 before it was amended.

R. G. S. SEC. 1160 (*Sec. 1 of Ch. 6456 as amended*):

"1160. Everglades Drainage District created; boundaries.—That for the purpose of draining and reclaiming the lands hereinafter described and protecting the same from the effects of water, for agricultural and sanitary purposes, and for the public convenience and welfare, and for the public utility and benefit, a drainage district is hereby established to be known and designated as the Everglades Drainage District, the territorial boundaries of which shall be as follows, to-wit:

Beginning at the northeast corner of township thirty-seven south, range thirty-nine east, thence west along the township line between townships thirty-six south and thirty-seven south to the northwest corner of township thirty-seven south, range thirty-one east.

Thence south along the range line between ranges thirty and thirty-one east to the northeast corner of township forty-two south, range thirty east; * * *

The remainder of this section, continuing the description of the boundaries of the District, is herein omitted.

R. G. S. Sec. 1161 (*Sec. 2 of Ch. 6456*):

"1161. Board of Commissioners of Everglades drainage governing board.—The Governor, the Comptroller, the State Treasurer, the Attorney General and the Commissioner of Agriculture of the State of Florida, and their successors in office, are hereby constituted the governing board of said district, and shall be designated the 'Board of Commissioners of Everglades Drainage District,' with all the powers of a body corporate, including the power to sue and be sued by said name in any court of law or equity, to make contracts and to adopt and use a common seal and alter the same at pleasure, to hold, buy and convey such personal or real property as may be necessary to carry out the purposes of this article, to appoint such agents and employees as the business of the Board may require, and to borrow money and to issue bonds therefor, as hereinafter provided, to enable the said board to carry out the provisions of this article."

R. G. S. Sec. 1164 (*Sec. 5 of Ch. 6456 as amended*):

"1164. Annual assessment of taxes levied; amount of acreage tax; lands held by trustees subject to tax.—For the purpose of constructing, completing and maintaining the works of drainage and reclamation hereby authorized for the benefit and protection of the lands

in said district annual assessments of taxes shall be and are hereby levied and imposed upon all the lands within said district, as follows, to wit: That upon the following described lands in said district, all being in townships south of the Tallahassee parallel, and in ranges east of the Tallahassee meridian, to wit:

In township forty-two, range thirty-one, sections twelve, thirteen, fourteen, twenty-two, twenty-three, twenty-four, twenty-five, twenty-six, twenty-seven, thirty-four, thirty-five, and thirty-six; also

• • • • •

In range thirty-eight, between townships forty-three and forty-four, lots one, two, three, four, five and six, a tax of twenty-eight cents per acre is hereby levied annually for a period of three years beginning with and including the year 1920; and thereafter for a period of four years, beginning with and including the year 1923, a tax of thirty cents per acre annually is hereby levied upon said lands; and thereafter a tax of thirty-five cents per acre annually, beginning with and including the year 1927, is hereby levied upon said lands.

• • • • •

The lands within said district held by the trustees of the internal improvement fund shall be subject to the taxes hereby imposed, and the said trustees, in furtherance of the trusts upon which the said lands are held are hereby authorized and empowered to pay the same out of any funds in their possession derived from the sale of lands or otherwise."

The omitted parts of this section continue at length the description of all the lands in the District subject to taxes and the levy upon such lands of acreage taxes at the specified rates for each year, in manner similar to that appearing in the parts of the section herein set out.

R. G. S. SEC. 1165 (Sec. 6 of Ch. 6456):

"1165. Use of proceeds arising from acreage tax.—

The proceeds arising from the acreage tax levied by this article shall be used by the said board in the construction and maintenance of such canals, drains, levees, dikes, dams, reservoirs, sluices, revetments and other works and improvements as the said board may deem necessary or advisable to drain and reclaim the lands in said district, and to the continuation of the construction of such canals, dams, locks, levees and reservoirs as are now in process of construction within said drainage district, and to the purchase of lands or personal property as the board may deem necessary to carry out the purposes of this article, and to the expenses of the board in the conduct of said work and its business generally, and to repay any loans and the interest thereon, and to the creation of a sinking fund for the retirement of the principal of the bonds that the board may issue under the provisions of this article, and to the payment of the interest thereon."

R. G. S. SEC. 1167 (Sec. 8 of Ch. 6456 as amended):

"1167. Board to prepare lists of lands embraced in district; notice of completion; completed lists transmitted to assessors; board given power to correct assessment of 1915; laws relating to State and county taxes applicable.—At the first meeting of the said board after the passage and approval of this Act as amended in 1915, and thereafter on the second Tuesday in January of each year, the said board shall prepare for each county in which said district may lie, in whole or in part, a list of the lands lying in such county and embraced in said drainage district. Such list shall describe such lands, when it is convenient to do so, by sections, townships and ranges, and upon such list or lists shall be designated the amount assessed by this article upon each section of land or part thereof for the year in which such list or lists are made. Imme-

dately upon the preparation of such lists, the said board shall cause to be published in a newspaper published in Tallahassee and in a newspaper published in Miami, once a week for two weeks, a notice of the completion of such lists, and that the same can be examined at the office of the said board, and that on a day to be specified in said notice, being not less than fifteen days from the date of the first publication thereof, the said board shall meet at the office of said board and hear and determine all complaints in relation to the preparation of such lists by the said board, and for that purpose they may adjourn from time to time. Such lists shall be signed by the chairman of the board and shall be attested by the secretary under the seal of the said board. Such lists, when completed, shall be immediately forwarded by the board by mail to the tax assessors of the counties in which said drainage district may lie, respectively. A copy of each of such lists shall be retained by the board, and the secretary shall endorse thereon the date when the original was forwarded to the tax assessor, and shall file such copy among the records of the board.

• • • • •
Except as is herein specifically provided, all laws relating to State and county taxes in this State be and are hereby made applicable to the Everglades Drainage District."

R. G. S. SEC. 1168 (*Sec. 9 of Ch. 6456 as amended*):

"1168. Method of assessment.—It shall be the duty of the tax assessor of each of the several counties embraced in whole or in part within said district to receive such list, and he shall enter upon the tax roll of the county of which he is the tax assessor the tax or assessment shown by said list to be assessed by this article for such year against the lands described in said list; such tax or assessment shall be entered upon the tax roll in a separate column under the head of

'drainage taxes' opposite the name of the person or persons or corporation owning such land, or their or its legal representative, if the same has been returned by such owner or legal representative of such owner for State and county taxes, or in case such land has not been returned by the owner thereof, or his or their legal representative, for State and county taxes, then opposite the word 'unknown', in the manner provided by law for making up the tax roll for State and county taxes. The tax or assessment levied by this article shall constitute a lien upon the lands so assessed as of the first day of January of each year in which the entries aforesaid are made in said tax rolls, which lien shall be superior in dignity to all other liens upon said lands and equal in dignity to the lien for State and county taxes upon said land. The tax assessor shall attach to said tax roll for the year 1913 and subsequent years a special warrant to the tax collector of such county for the collection of said drainage tax, and such special warrant shall be signed by the tax assessor and be the authority of the tax collector for the collection of said taxes. Such warrant shall be substantially in the following form:

Special Warrant for Collection of Drainage Taxes,
State of Florida, to _____,
Tax Collector of the County of _____:
You are hereby commanded to collect out of the real estate against which drainage taxes are assessed and set forth in this roll, and from the persons or corporations named therein, against whose lands drainage taxes are assessed, the drainage tax set down in said roll opposite each name, corporation or parcel of land therein described, and in case such drainage tax is not paid on or before the first day of April next, you are to collect the same by levy and sale of the lands so assessed; and all sums collected for drainage taxes you are to pay to the board of commissioners of everglades drainage district.

Given under my hand and seal, this _____ day of
_____, A. D. 19____.

Assessor of Taxes, _____ County.

Such warrant shall remain in full force until all the drainage taxes shown in said roll to be assessed shall be collected."

R. G. S. Sec. 1169 (*Sec. 10 of Ch. 6456 as amended*):

"1169. **Drainage taxes when payable; collector authorized to receive drainage tax without requiring payment of other taxes; enforcement by sale; sale for delinquent taxes may be made in any year.**—All drainage taxes or assessments levied by this article shall be payable on the first Monday in November of the year for which the same are assessed, and the tax collector shall collect the same on or before the first day of April following. The tax collector is authorized to receive drainage taxes and issue receipts therefor without requiring the payment of other taxes at the time of the payment of such drainage taxes. If such tax shall not be paid on any parcel or parcels of land by the person, persons or corporation whose duty it is to pay the same, on or before the first day of April in the year following that year for which such assessment is made, the tax collector shall advertise and sell such lands, by newspaper notice or by posting, in the same manner as is now provided by law for the sale of lands for the non-payment of State and county taxes, except as herein otherwise provided, but no lands which have previously been sold for the non-payment of such tax or assessment, and for which unredeemed tax certificates are outstanding, shall be again advertised and sold for the non-payment of such tax, but the tax or assessment for each subsequent year shall continue as a lien upon said land, superior in dignity to all other liens, except the lien for State and county taxes, until paid. * * *"

R. G. S. SEC. 1171 (*Sec. 12 of Ch. 6456 as amended*): .

"1171. How lands sold for taxes.—On the day designated in the notice of sale, at 11 o'clock a. m., the tax collector shall commence the sale of those lands on which the drainage tax or assessment has not been paid as aforesaid, and shall continue the same from day to day until so much of each parcel thereof shall be sold as shall be sufficient to pay the drainage tax or assessment, costs and charges thereon, and in case there are no bidders, the whole tract shall be bid off by the tax collector for the trustees of the internal improvement fund, and shall be held by said trustees during the period herein allowed for the redemption of said lands in like manner and with like effect as lands sold to the State for non-payment of State and county taxes are held by the State, as now provided by law; and the tax collector must offer all such lands as assessed. The land shall be struck off to the person who will pay tax, costs and charges for the least portion of the land, and the portion thereof sold shall be taken from the southeast corner of such parcel and described in a square form, as near as may be."

Before the enactment of the amending statute, Chapter 7305, Laws of Florida of 1917, the original section 12 of Chapter 6456, Laws of Florida of 1913, was as follows:

"Sec. 12. On the day designated in the notice of sale at 11 o'clock A. M. the Tax Collector shall commence the sale of those lands on which the drainage tax or assessment has not been paid as aforesaid and shall continue the same from day to day until so much of each parcel thereof shall be sold as shall be sufficient to pay the drainage tax or assessment, costs and charges thereon, and in case there are no bidders the whole tract shall be bid off by the Tax Collector for the Board of Commissioners of Everglades Drainage District and the Tax Collector must offer all such

lands as assessed. The land shall be struck off to the person who will pay tax, costs and charges for the least portion of the land, and the portion thereof sold shall be taken from the Southeast Corner of such parcel and described in a square form as near as may be."

R. G. S. SEC. 1172 (*Sec. 13 of Ch. 6456*):

"1172. **Immediate payment by purchasers.**—The tax collector shall require immediate payment by any person to whom any parcel of such land may be struck off, and in all cases when the payment is not made within one hour he may declare the bid cancelled and sell the land again on the same day or the day following, and any person so neglecting or refusing to pay any bid made by him shall not be entitled, after such neglect, to have any bid made by him received by the tax collector during such sale."

R. G. S. SEC. 1173 (*Sec. 14 of Ch. 6456 as amended*):

"1173. **Certificate of sale; form.**—At the sale aforesaid the tax collector shall give to the purchaser a certificate of such sale, describing the lands and the amount of drainage taxes, costs and charges due thereon. The certificate shall be substantially in the following form:

STATE OF FLORIDA,

COUNTY OF _____

OFFICE OF TAX COLLECTOR.

_____, A. D. 19____

No. _____

I, _____, Tax Collector of the County of _____, in the State of Florida, do hereby certify that, pursuant to notice published as by law required, I offered for sale at public auction on this _____ day of _____,

A. D. 19_____, at the court house in said County, the lands hereinafter described, in the manner prescribed by law, for the amount due and unpaid for drainage tax, costs and charges on said lands for the year 19_____. That said lands were knocked off and sold to _____ for the sum of _____ dollars, the same being the amount of said unpaid drainage tax, costs and charges. And that if this certificate is not redeemed within two years from this date by payment of said amount, with interest thereon at the rate of two per centum per month from April first of the present year until April first of the following year, and eight per centum per annum thereafter, the holder thereof, or his assigns, will be entitled to receive a deed of conveyance of such lands in accordance with law, unless the holder at that time shall be the board of commissioners of Everglades Drainage District, in which case the title to such lands will then vest in said board without the issuance of a deed.

Said lands are described as follows, to wit: _____, located in _____ County, State of Florida.

WITNESS my hand at _____, this day of _____, A. D. 19_____.

Tax Collector, _____ County."

R. G. S. SEC. 1175 (*Sec. 16 of Ch. 6456 as amended*):

"1175. Title to unredeemed lands to vest in trustees; sale of such lands after notice; disposition of proceeds.—When land is bid off by the tax collector for the trustees of the internal improvement fund, the tax certificate shall be issued by the tax collector as of the date of sale in the name of the trustees of the internal improvement fund, and if the land is not redeemed on or before two years from the date of such

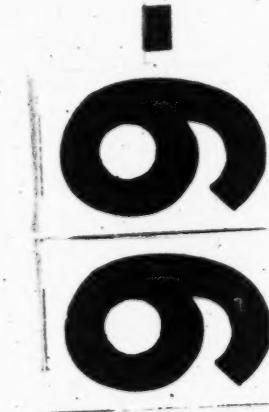
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certificate, the title to the same shall immediately vest in the said trustees without the issuing of any deed as provided in other cases, and the certificates held by the said trustees shall be evidence of the title of the said trustees. The said trustees may sell and convey the said lands by deed at the best price obtainable therefor, provided such price shall not be less than the amount of all drainage taxes upon said lands which shall have become due and payable thereon pursuant to the provisions of this article. And Provided further, That no such lands shall be sold by the said trustees until four weeks' notice of the said trustees' intention to make such sale shall have been published once each week in a newspaper published in the county in which such lands lie, and if there be no newspaper published in such county, then such notice shall be published as aforesaid in a newspaper published in Jacksonville, Florida. The trustees may reject any and all bids offered for said lands.

The deed of conveyance executed by the said trustees to any such lands shall be signed by the said trustees as other deeds made by them are signed, and shall vest in the grantee of such deed the fee simple estate to such lands, free from all liens of any character except such liens as may exist for State and county taxes thereon, and such deed shall be incontestable. The proceeds of the sales of said lands shall be applied by the said trustees in the payment of drainage taxes or assessments or other obligations of said trustees."

Before the enactment of the amending statute, Chapter 7305, Laws of Florida of 1917, the original section 16 of Chapter 6456, Laws of Florida of 1913, was as follows:

"SEC. 16. When land is bid off by the Tax Collector for the said Board the tax certificate shall be issued by the Tax Collector in the name of the Board of Commissioners of Everglades Drainage District, and if the land is not redeemed on or before the first

day of December next following, the title to the same shall immediately vest in the said Board without the issuing of any deed as provided in other cases, and the certificates held by the said Board shall be evidence of the title of the said Board. The said Board may sell and convey the said lands by deed at the best price obtainable therefor, provided such price shall not be less than the amount of all drainage taxes upon said lands which shall have become due and payable pursuant to the provisions of this Act prior to such sale; and provided further that no such lands shall be sold by the said Board until four weeks' notice of the said Board's intention to make such sale shall have been published once each week in a newspaper published in the County in which such lands lie, and if there be no newspaper published in such County, then such notice shall be published as aforesaid in a newspaper published in Jacksonville, Florida. The Board may reject any and all bids offered for said lands. The deed of conveyance executed by the said Board to any such lands shall be signed by the members of said Board and attested by the Secretary with the seal of said Board and shall vest in the grantee of such deed the fee simple estate to such lands, free from all liens of any character except such liens as may exist for State and County taxes thereon, and such deed shall be incontestable. The proceeds of the sales of said lands shall be applied by the said Board in the payment of bonds and other indebtedness incurred pursuant to the provisions of this Act and in the construction, completion and maintenance of the works authorized by this Act."

R. G. S. SEC. 1176 (*Sec. 17 of Ch. 6456 as amended*):

"1176. Redemption of tax certificates; if unredeemed holder may apply for deed; tax deed; application and notice; record of redemption, cancellation of certificates; tax deed not to be set aside for certain

defects.—Any tax certificate issued under the provisions of this Article may be redeemed by the owner of said lands covered by the certificate, or any person claiming to be the owner thereof, or his agent or attorney, by paying to the clerk of the circuit court for the county wherein such lands may lie on or before two years from the date of such certificate the amount of the drainage tax due thereon for such year and all costs and charges as shown by said certificates, and interest on said amounts from the first day of April preceding such sale at the rate of two per cent per month for the first year and thereafter eight per cent per annum, together with all subsequently omitted taxes or assessments imposed under authority of this Article due and payable thereon. In the event any certificate is not redeemed as herein provided for, the holder thereof may apply to the clerk of said circuit court for a deed to said lands described in said certificate. If the certificate so redeemed is held by the said trustees, the clerk shall transmit to such trustees the amount paid on the redemption of such certificate, and said trustees shall forward to the clerk said certificate for cancellation. If such certificate is held by an individual or corporation the said clerk shall pay such sum received for the redemption of such certificate to the holder thereof, his agent or attorney, upon the delivery of such certificate to the clerk who shall cancel the same. No such tax deeds, and no such deeds given by the trustees shall be set aside or deemed to be ineffectual to convey title because of any defect of description of the premises in the tax rolls or collector's warrant or advertisement of sale or certificate of sale or tax deed or other document, notice or paper prescribed herein, provided the description given is sufficient to describe the premises with reasonable certainty, * * * * If any tax deed or deeds by the trustees be invalid for either of the two reasons last given, the board of commissioners of Everglade Drainage District or the trustees as the case may be

shall, on application therefor, refund to the purchaser, or his assigns, of the lands so sold, or of lands so sold to the trustees and by them sold to him, the amount of drainage taxes received in connection therewith, with interest at six per cent per annum. All tax deeds and deeds issued by the trustees pursuant to this Article shall be and are hereby declared *prima facie* evidence of the regularity of the proceedings from the date of the first meeting of the board of commissioners of Everglades Drainage District at which is prepared for each county a list of the lands lying therein and embraced in said drainage district, to the date of the deed or deeds inclusive, and shall be so received in evidence in any and all courts of this State without regard to date of execution, and no defense shall be permitted thereto except the two defenses last hereinabove mentioned and the defense that no notice of application for the tax deed or of the expiration of the period of redemption was at any time either posted or published or mailed or delivered to the owner or person last paying taxes thereon."

Before the enactment of the amending statute, Chapter 7305, Laws of Florida of 1917, the original section 17 of Chapter 6456, Laws of Florida of 1913, was as follows:

"SEC. 17. Any tax certificate issued under the provisions of this Act may be redeemed by the owner of said lands covered by the certificate, or any person claiming to be the owner thereof, or his agent or attorney, by paying to the Clerk of the Circuit Court for the County wherein such lands may lie on or before the 1st day of December following the date of such certificate the amount of the drainage tax due thereon for such year, and all costs and charges as shown by said certificate, and interest on said amounts from the first day of April, preceding such sale, at the rate of two per cent per month. In the event any certificate is not redeemed as herein provided on or before the

first day of December following the date of such certificate, the holder thereof may apply to the Clerk of said Circuit Court for a deed to said lands described in said certificate. * * * If the certificate so redeemed is held by the said Board, the Clerk shall transmit to such Board the amount paid on the redemption of such certificate, and said Board shall forward to the Clerk said certificate for cancellation, if such certificate is held by an individual or corporation the said Clerk shall pay such sum received for the redemption of such certificate to the holder thereof, his agent or attorney, upon the delivery of such certificate to the Clerk, who shall cancel the same."

R. G. S. SEC. 1178 (*Sec. 19 of Ch. 6456 as amended*):

"1178. Board authorized to borrow money on permanent loans; authorized to issue bonds to certain amount under certain limitations.—The board of commissioners of Everglades Drainage District is hereby authorized and empowered to borrow money on permanent loans and incur obligations from time to time on such terms and at such rates of interest as it may deem proper, not exceeding six per cent, for the purpose of raising funds to continue and prosecute to final completion the canals, drains, dikes, dams, locks and reservoirs now in process of construction in the territory embraced in said district, and to build and construct such other canals, drains, dikes, dams, locks, reservoirs and other works as the said board may deem advantageous to the territory embraced in said drainage district, and to pay the expenses incident to such work and all expenses necessary or needful to be incurred in carrying out the purpose of this Article. And the better to enable said board to borrow the money necessary to carry out the purposes aforesaid, the said board is hereby authorized and empowered to issue in the corporate name of said board negotiable coupon bonds of said Everglades Drainage District: Pro-

vided, however, That the amount of bonds issued and outstanding under this Act shall not at any time exceed six million dollars, that is to say, two million five hundred thousand dollars over and above the three million, five hundred thousand dollars as provided for and authorized under the provisions of Chapter 6957 of the Acts of 1915; and provided further, that the amount of bonds authorized and issued by said board in any fiscal year, such fiscal year being deemed to end on the 31st day of December in each year including 1915, shall not exceed the sum of one million five hundred thousand dollars; but nothing herein contained shall be deemed a limitation of the right of the legislature to authorize additional bonds of said board payable from drainage taxes within said district, provided any such additional authority shall be accompanied by the levy and imposition of additional taxes or assessments sufficient to meet the payment of the bonds authorized and interest thereon as the same shall become due; such payment to be provided for by a sinking fund as herein required, and such additional bonds shall constitute an obligation of equal dignity with the bonds herein authorized and equally with the bonds herein authorized may be entitled to payment from all drainage taxes then or thereafter imposed upon the lands within said district without preference to any bonds or series of bonds over any other bonds or series of bonds."

Before the enactment of the amending statute, Chapter 6957, Laws of Florida of 1915, the original section 19 of Chapter 6456, Laws of Florida of 1913, was as follows:

"SEC. 19. The Board of Commissioners of Everglades Drainage District is hereby authorized and empowered to borrow money on permanent loans and incur obligations from time to time on such terms and at such rates of interest as it may deem proper, not

exceeding six per cent, for the purpose of raising funds to continue and prosecute to final completion the canals, drains, dikes, dams, locks and reservoirs now in process of construction in the territory embraced in said district, and to build and construct such other canals, drains, dikes, dams, locks, reservoirs and other works as the said Board may deem advantageous to the territory embraced in said drainage district, and to pay the expenses incident to such work and all expenses necessary or needful to be incurred in carrying out the purpose of this Act. And the better to enable said Board to borrow the money necessary to carry out the purposes aforesaid, the said Board is hereby authorized and empowered to issue in the corporate name of said Board negotiable coupon bonds of said Everglades Drainage District, provided however that the total amount of bonds so issued and outstanding shall not at any time exceed six million dollars principal, and provided further that the amount issued by said Board in any fiscal year (such fiscal year being deemed to end on the 31st day of December in each year, including the year 1913) shall not exceed the sum of one million five hundred thousand dollars."

R. G. S. SEC. 1179 (*Sec. 20 of Ch. 6456 as amended*):

"1179. Denomination of bonds; redemption.—The bonds to be issued by authority of this Article shall be in denominations of one thousand dollars, or such smaller denominations, but not less than one hundred dollars, as the said board may determine. Said bonds shall bear interest at a rate to be fixed by said board not exceeding six per cent per annum, which interest shall be payable semi-annually in gold coin or its equivalent in lawful money of the United States, at the office of the State Treasurer of the State of Florida, or if the said board shall deem it expedient, at the office of said State Treasurer and at such other place as shall be designated by the said board, at the option

of the holder, the place of payment being specified in the said bonds and in the coupons attached thereto. The principal of said bonds shall be made payable to bearer in gold coin or its equivalent in lawful money of the United States at such periods of time or dates not exceeding thirty years from the date of issuing the same, as the said board shall determine, and it may in the discretion of said board be provided that at any time after such date as shall be fixed by the said board, the said bonds may be redeemed at the option of the said board or their successors in office, such redemption to be made in the manner specified in this Article. * * *

R. G. S. SEC. 1180 (*Sec. 21 of Ch. 6456*):

"1180. How bonds executed; certificate of Attorney-General; custodian of bonds.—The bonds authorized by this Article to be issued shall be signed by each member of the said board and attested by the secretary under the seal of the said board. Said bonds shall be in such form as shall be prescribed by the said board, shall recite that they are issued under the authority of this Article which shall be referred to by number of Chapter and date of approval, and shall pledge the faith and credit of the board of commissioners of the Everglades Drainage District for the prompt payment of the principal and interest thereof. * * * When the said board has caused any bonds issued under this Article to be prepared, signed and sealed in the manner prescribed herein, the said bonds shall be submitted to the Attorney-General of the State of Florida, whereupon it shall be the duty of the Attorney-General to carefully examine the said bonds in connection with the facts and constitution and the provisions of this statute, and if as a result of such examination, the Attorney-General shall find that such bonds are issued in conformity with the constitution and in conformity with this statute and that they are

binding and valid obligations upon the said board and the said Everglades Drainage District, he shall officially so certify on each of the said bonds as follows:

"The within bond examined and certified to be regularly issued and a valid obligation of the board of commissioners of Everglades Drainage District."

Which certificate shall be signed by the Attorney-General and shall be admitted and received in evidence as proof of the validity of such bonds with the coupons thereto attached, and no defense shall be offered against any bonds so certified in any action or proceeding except forgery. * * *

R. G. S. SEC. 1182 (*Sec. 23 of Ch. 6456*):

"1182. Authority for issuance and sale of bonds; act contract between board and holder of bonds; suit to enforce payment.—This Article shall without reference to any other act of the legislature of Florida be full authority for the issuance and sale of the bonds in this Article authorized, which bonds shall have all the qualities of negotiable paper under the law merchant, and shall not be invalid for any irregularity or defect in the proceedings for the issue and sale thereof, and shall be incontestible in the hands of *bond fide* purchasers or holders thereof for value. No proceedings in respect to the issuance of any such bonds shall be necessary except such as are required by this Article: The provisions of this Article shall constitute an irrepealable contract between the said board and said Everglades Drainage District and the holders of any bonds and the coupons thereof, issued pursuant to the provisions hereof. Any holder of any of said bonds or coupons may either at law or in equity by suit, action or mandamus enforce and compel the performance of the duties required by this Article of any of the officers or persons mentioned in this Article in relation to the said bonds, or to the collection, enforcement and application of the taxes for the payment

thereof: Provided, however, That no obligation authorized by this Article shall be construed as an obligation of this State, but only as the obligation of the Drainage District herein created."

R. G. S. SEC. 1183 (*Sec. 24 of Ch. 6456*):

"1183. **Payment of interest on bonds; sinking fund created for payment of bonds, etc.**—It shall be the duty of the State Treasurer or his successor in office, as custodian of the funds belonging to the said board of commissioners and to the said Drainage District, out of the proceeds of the taxes levied and imposed by this Article and out of any other moneys in his possession belonging to the said board or to the said Drainage District, which moneys so far as necessary are hereby set apart and appropriated for the purpose, to apply said moneys and to pay the interest upon the said bonds as the same shall fall due and at the maturity of the said bonds out of the said moneys to pay the principal thereof, and there shall be and there is hereby created a sinking fund for the payment of the principal of the said bonds, and the said board shall set apart and pay into such sinking fund annually out of the taxes levied and imposed by this Article, and the other revenue and funds of the said district, at least two per cent of the amount of bonds outstanding. The said sinking fund for the payment of the principal of said bonds shall not be appropriated to any other purpose than that herein specified."

R. G. S. SEC. 1184 (*Sec. 25 of Ch. 6456*):

"1184. **Investment of sinking fund; sale of securities to protect sinking fund, etc.; custodian of funds; disbursement of funds; depositories, etc.**—* * * The State Treasurer shall be the custodian of all funds belonging to the said board and to the said Drainage District, and such funds shall be disbursed only upon the order of the Comptroller countersigned by the

Governor, but the Comptroller shall draw no such order except upon a voucher, or vouchers, approved by the said board. * * *

Chapter 8412, Laws of Florida of 1921.

In 1921 the Florida legislature provided funds for maintenance and other general purposes of Everglades Drainage District, by Chapter 8412, Laws of Florida of 1921, in which, among other things, it is enacted that:

"SECTION 1. That there is hereby levied and assessed on all real, personal and mixed property in the Everglades Drainage District of Florida, including the lands held by the Trustees of the Internal Improvement Fund for the State of Florida, annually, beginning with and including the year 1921 a tax of one mill on each one dollar of valuation, and the said tax to be known as a maintenance tax and shall be used for maintenance, repairs, upkeep, and any other general or necessary purpose of the District."

Chapters 10,026 and 10,027, Laws of Florida of 1925.

In 1925 the legislature of the State of Florida enacted Chapters 10026 and 10027, Laws of Florida of 1925, amending certain of the sections of the Revised General Statutes of Florida of 1920 as amended in 1921 and 1923. The amendments enacted in 1921 and 1923 authorized additional bonds of the District to be issued and levied increased rates and amounts of taxes for payment of the additional bonds authorized to be issued.

Chapter 10027 amended R. G. S. Sec. 1179 relating to the refunding of outstanding bonds of Everglades Drain-

age District. Chapter 10026 amended R. G. S. Sec. 1160 relating to the boundaries of Everglades Drainage District; and also amended R. G. S. Sec. 1178, as amended in 1921 and 1923, so as to authorize the Board of Commissioners of the District to issue additional bonds of the District in the amount of \$3,000,000 over and above the total amount theretofore authorized to be issued; and Chapter 10026 also amended R. G. S. Sec. 1164 as amended in 1921 and 1923, by providing increased rates of taxes upon all the lands in Everglades Drainage District, it being enacted by Section 2 of said Chapter 10026:

"SEC. 2. That Section 1164 of the Revised General Statutes of the State of Florida, as amended by Section 1 of Chapter 8413, Laws of Florida, Acts of 1921, as amended by Section 1 of Chapter 9119, Laws of Florida Acts of 1923, be and same is hereby amended to read as follows:

1164. Annual assessment of taxes levied: Amount of acreage tax: Lands held by Trustees subject to tax: For the purpose of constructing, completing and maintaining the works of drainage and reclamation hereby authorized for the benefit and protection of the lands in said district, annual assessments of taxes shall be and are hereby levied and imposed upon all lands within said district, as follows, to wit: all being in Townships south of the Tallahassee parallel and in the ranges east of the Tallahassee meridian, to-wit:

ZONE 1.

That upon the following described lands in the said district, all being in Township South, Ranges East, Tallahassee Meridian, and Parallel as enumerated as follows, to wit:

In Township 41, Range 32, all Sections; 34 and 35; also

A tax of \$1.25 per acre except on platted town lots of ONE acre or less, and \$1.25 on each such town lot is hereby levied for each of the years 1925 and 1926; and thereafter a tax of \$1.50 per acre except on platted town lots of ONE acre or less, and \$1.50 on each such town lot annually is hereby levied upon said lands.
 * * *

The omitted parts of this section continue at length the description of all the lands in the District subject to taxes, and the levy upon such lands of acreage taxes at the specified rates for each year, in manner similar to that appearing in the parts of the section herein set out.

Chapter 13,633, Laws of Florida of 1929.

In 1929 the legislature of the State of Florida passed the first of the statutes which appellants contend impair the obligation of their bond contract, being Chapter 13,633, Laws of Florida of 1929, in which among other things it is enacted that:

"SECTION 6. For the purpose of constructing, completing and maintaining the works of Drainage and Reclamation hereby authorized, and for the benefit and protection of the lands in said District, and for carrying on the business of said District generally, and in lieu and instead of all other acreage taxes or assessments now authorized to be levied by said Board, annual assessment of taxes shall be and hereby are levied and imposed upon all lands within said district for the year 1929 and subsequent years as follows, to-wit:

Upon all lands described in Zone No. 1 as the same is defined by Chapter 12017, Laws of Florida, Acts of 1927, a tax of \$1.30 per acre for each of the years

1929 and 1930 and a tax of \$1.45 per acre for each year thereafter.

Provided, however, that there shall be deducted from the taxes hereinabove provided for as to each acre of land within said District in each year, an amount equal to the sum of money levied for such year upon such land as an acreage tax under the provisions of An Act of the Legislature of Florida, creating Okeechobee Flood Control District, and such deduction shall be made by the Board at the time Everglades Drainage District taxes are certified to the several Tax Assessors in each year.

The Board shall, as soon as practicable, after the passage and approval of this Act, certify to the Tax Assessor of each County containing lands within said District, the acreage taxes levied upon the said lands in accordance with the foregoing provisions for the year 1929 and each Tax Assessor shall extend upon the tax roll for the year 1929 the amount of taxes so certified, in lieu of other acreage taxes certified by said Board to the said Tax Assessors for the year 1929.

All of the provisions of existing laws with reference to acreage taxes authorized to be levied by the Board of Commissioners of Everglades Drainage District under the provisions of Chapter 12017, Laws of Florida, Acts of 1927, are hereby made applicable to the Acreage taxes levied under the provisions of this Act. Provided, however, that the said Board shall have the right at any time to reduce the taxes hereinabove levied in each of said zones and lands proportionately to the extent of not more than twenty-five (25%) per cent of the foregoing levies on such zones and lands, and from time to time to re-adjust such levies on each of said zones and lands proportionately, not to exceed the amount per acre hereinabove levied in any of such areas, after a hearing of objec-

tions to such proposed reduction or re-adjustment at a time and place fixed in a notice to be published once a week for three consecutive weeks in a newspaper published in each county lying wholly or partly in said district.

SECTION 36. All laws or parts of laws in conflict herewith are hereby repealed."

Chapter 14,717, Laws of Florida of 1931.

In 1931 the legislature of the State of Florida passed the second of the statutes which appellants contend impair the obligation of their bond contract, being Chapter 14,717, Laws of Florida of 1931, in which among other things it is enacted that:

"SECTION 6. The taxes and special assessments in this Act levied and authorized to be levied shall be used solely and exclusively for the several uses, purposes and objects specified in this statute with respect to the several such taxes and special assessments.

SECTION 7. That for the purpose of enabling the Board to pay the principal and interest of all obligations of Everglades Drainage District heretofore incurred and now outstanding, there are hereby levied and imposed within Everglades Drainage District the following special taxes or assessments, which shall be known and designated as the 'Debt Service Tax':

Upon all of the lands lying and being situate within Zone One, hereinabove described, a tax of Forty-nine Cents (\$0.49) per acre per annum for the year 1931, and for each year thereafter.

ADMINISTRATION TAX.

SECTION 8. That for the purpose of paying the cost of administering the affairs of the said District

generally there is hereby levied and imposed upon lands within Everglades Drainage District a special tax or assessment as follows:

Upon all of the lands lying and being situate within Zone One, hereinabove prescribed, a tax of Twenty-one Cents (\$0.21) per acre per annum for the year 1931, and for each year thereafter.

FINANCIAL ADMINISTRATION.

SECTION 43. There are hereby established for Everglades Drainage District the following separate and distinct Funds:

SEPARATE FUNDS ESTABLISHED.

(A) Administration Fund, into which shall be paid the proceeds of the administration tax levied by this Act.

(B) Debt Service Fund, into which shall be paid the proceeds of the debt service tax levied by this Act, and also the proceeds of the conversion into money of all tax sale certificates and/or lands which shall be received by Board of Commissioners of Everglades Drainage District from Trustees of Internal Improvement Fund of Florida under the provisions of this Act, and all moneys which shall be received by the Board after November 1, 1931, from redemption and/or sale of lands sold for the non-payment of taxes levied for the year 1930.

PLEDGE OF ADMINISTRATION FUNDS.

(D) The Board shall have the power to borrow in any year for the account of the Administration Fund not more than sixty per centum (60%) of the total administration tax levied for such year and to issue the promissory note, or other negotiable evidence of debt,

of Everglades Drainage District, bearing interest at the rate of not more than eight per centum (8%) per annum, evidencing such loan, and to pledge the avail of the administration tax for such year for the repayment of such loan. The proceeds of any such loan shall be paid into the Administration Fund.

USE OF MONEY'S BELONGING TO SEPARATE FUNDS.

SECTION 44. The moneys which shall be placed in the separate Funds established and defined by the preceding section shall be used and expended only for the following purposes, severally:

(A) Administration Fund, for the purpose of administering the affairs of Everglades Drainage District generally and for the payment of any other items of expense specifically authorized to be paid from such Fund by the provisions of this Act.

(B) Debt Service Fund, for the sole purpose of paying the principal and interest of obligations now owing by Everglades Drainage District, including bonds and notes and any bonds or refunding bonds which may be issued under the provisions of this Act for the purpose of funding or refunding any existing obligations. The fact that moneys in such Debt Service Fund are made applicable to the payment of the principal and interest of all obligations now owing by Everglades Drainage District shall not operate to destroy any priority as to payment which may now exist with respect to the several obligations or classes of obligations now owing by said District.

SALE OF LANDS UPON WHICH TAXES ARE NOT PAID.

SECTION 56. (A) If the drainage taxes shall not be paid on any parcel of land on or before the first day of April in the year following that year for which the assessment was made, the Tax Collector shall advertise and sell such lands, as herein provided.

CONDUCT OF SALE.

(C) On the day designated in the notice of sale, and at the time that the lands described therein are offered for sale for State and County Taxes unpaid thereon, the Tax Collector shall offer for sale, separately, all lands delinquent for the payment of drainage taxes, together with the costs and charges thereon, and such lands shall be struck off to the person who will pay the drainage taxes, costs and charges and will demand the lowest rate of interest for the first year not in excess of the maximum rate allowed by law. If there shall be no bidder for any tract of land offered for sale for drainage taxes the whole tract shall be bid off by the Tax Collector for Board of Commissioners of Everglades Drainage District. The said sale shall continue from day to day until each parcel of land delinquent for the payment of drainage taxes shall have been sold.

TRANSFER OF TAX SALE CERTIFICATES
TO BOARD.

SECTION 65. (A) It is hereby recited and declared that all tax sale certificates in the hands of the Trustees of Internal Improvement Fund of the State of Florida, whether evidencing a lien upon, or title to, lands within Everglades Drainage District, which said tax sale certificates were issued to the said Trustees of Internal Improvement Fund in pursuance of the sale of lands for the non-payment of taxes or assessments heretofore levied and imposed by, or upon behalf of, Everglades Drainage District are held by such Trustees of Internal Improvement Fund in trust for Board of Commissioners of Everglades Drainage District, and that the beneficial interest in, and title to, said tax sale certificates are vested in Board of Commissioners of Everglades Drainage District, subject to the right of Trustees of Internal Improvement

Fund, to be repaid by Everglades Drainage District, any sums of money which may have been advanced by Trustees of Internal Improvement Fund for the account of Everglades Drainage District and which shall be found to be owing by Everglades Drainage District to such Trustees.

(B) Within ninety (90) days after this Act goes into effect, or as soon thereafter as practicable, the said Trustees of Internal Improvement Fund shall assign, transfer and deliver unto Board of Commissioners of Everglades Drainage District all such tax sale certificates and the said Board of Commissioners of Everglades Drainage District shall thereupon become seized and possessed of every right, title and interest now vested in said Trustees of Internal Improvement Fund under and by virtue of said tax sale certificates. Whatever sum of money may be found to be owing by Everglades Drainage District to Trustees of Internal Improvement Fund shall be adjusted at the time of the transfer of such certificates in such manner as may be agreed upon between the Board and such Trustees, and any such indebtedness may be paid, in whole or in part, by the relinquishment by the Board of all of its rights in certain certificates, to be agreed upon between the Board and such Trustees. Any balance which may be owing to such Trustees after the Board shall have been given credit for any certificates retained by the Trustees as aforesaid shall be evidenced by certificates of indebtedness to be issued by the Board to such Trustees. The said certificates of indebtedness shall be signed in the name of the Board by its Chairman or Vice-chairman, attested by its Secretary, under its seal, shall be in denominations of not less than One Thousand Dollars (\$1,000), and shall bear interest at the rate of two per centum (2%) per annum from the date of their issuance until paid. The said certificates of indebtedness, including the principal and interest thereof, shall be receivable by Board of Commissioners of Ever-

glades Drainage District from the Trustees of Internal Improvement Fund, or from any person who shall hereafter purchase lands within Everglades Drainage District from such Trustees, in payment of Everglades Drainage District taxes, as the same may become due and payable, upon lands which are now, or may hereafter be, held by the said Trustees, and the indebtedness evidenced by such certificates shall be liquidated as the said certificates are presented by the Trustees, or their grantees, as aforesaid, to the Board in payment of drainage taxes upon such lands. Board of Commissioners of Everglades Drainage District shall not be required to pay the said certificates of indebtedness in any other manner except by accepting the same in payment of taxes upon lands which are now, or may hereafter be, owned in Everglades Drainage District by Trustees of Internal Improvement Fund, but such certificates may be used for the purpose of paying taxes upon such land either by the said Trustees or by any person or persons who may hereafter purchase any of said lands from such Trustees.

(e) Upon the expiration of the time for redemption with respect to certificates which shall be retained by Trustees of Internal Improvement Fund no further right to redeem shall exist and the said Trustees shall be deemed to have a fee simple title to all lands covered by unredeemed certificates in their hands, and such lands shall constitute a part of the Internal Improvement Fund of the State of Florida and shall be held and disposed of by such Trustees in like manner as is provided by law with respect to other lands constituting a part of such Internal Improvement Fund.

SALE OF LANDS BY BOARD.

SECTION 67. Lands to which the Board of Commissioners of Everglades Drainage District shall acquire title under the provisions of this Act, or under the pro-

visions of any other law, may be sold by the said Board in the manner following:

LANDS COVERED BY CERTIFICATES NOW EXISTING.

(A) Any lands covered by tax sale certificates which shall be transferred to Board of Commissioners of Everglades Drainage District by Trustees of Internal Improvement Fund may be sold by the Board at the best price obtainable therefor, and the Board, in its discretion, may accept in payment of all, or a part, of the purchase price therefor bonds and/or matured interest coupons of Everglades Drainage District at par.

LANDS COVERED BY TAX SALES MADE HEREAFTER.

(B) Any lands to which the Board may acquire title in the future by virtue of tax sales hereafter to be made may be sold by the Board at any time for the best price obtainable therefor, but not less than the amount of all unpaid District taxes thereon, plus interest, penalties, costs and charges.

**REDEMPTION OF LANDS FROM TAX SALES—
PAYMENT WITH BONDS.**

SECTION 71. In the redemption of land from tax certificates which shall be transferred to the Board under the provisions of this Act, and in the redemption of lands which shall be sold to the Board for the non-payment of the taxes assessed for the year 1930, the person entitled to redeem shall have the right to pay the amount required to redeem such land with bonds of Everglades Drainage District now outstanding, and/or matured interest coupons attached to such bonds, and such bonds and/or interest coupons shall be accepted, in lieu of money, at the par value thereof. The fees for redemption shall be paid in cash.

SECTION 104. All laws or parts of laws in conflict herewith are hereby repealed."

Chapter 17,902, Laws of Florida of 1937.

In 1937 the legislature of the State of Florida passed the third of the statutes which appellants contend impair the obligation of their bond contract, being Chapter 17,902, Laws of Florida of 1937, in which among other things it is enacted that:

“SECTION 3. That Section 7 of said Act* be and the same is hereby amended so as to read as follows:

SECTION 7. That for the purpose of enabling the Board to pay the principal and interest of all obligations of Everglades Drainage District heretofore incurred and now outstanding and any refunding bonds hereafter issued, there are hereby levied and imposed within Everglades Drainage District the following special taxes or assessments, which shall be known and designated as the ‘Debt Service Tax’:

Upon all of the lands lying and being situate within Zone One, hereinabove described, a tax of Ninety Cents (\$.90) per acre per annum for the year 1937, and for each year thereafter.

SECTION 4. That Section 8 of said Act be and the same is hereby amended so as to read as follows:

SECTION 8. That for the purpose of paying the cost of administering the affairs of the said District generally, there is hereby levied and imposed upon lands within Everglades Drainage District a special tax or assessment as follows:

Upon all of the lands lying and being situate within Zone One, hereinabove described, a tax of Ten Cents (\$.10) per acre per annum for the year 1937, and for each year thereafter.

Such other funds as may be received by the Board, and not by this Act specifically appropriated or allotted to other funds, shall become a part of the Administration Fund.

SECTION 9. In connection with the effectuation and consummation of any compromise, refinancing or re-funding of the indebtedness of said Everglades Drainage District, the Board of Commissioners is hereby authorized and empowered to compromise, adjust, or cancel, without payment, any and all Everglades Drainage District taxes and liens now outstanding against the lands within said District levied by the laws of the State of Florida for the years 1936 and prior years, and held and owned by the Board of Commissioners of Everglades Drainage District, by proper resolution of said Board setting forth the manner and terms upon which said compromise, adjustment, or cancellation has been or will be made, and providing for the means and manner of clearing the records as to such liens under the provisions of this Act.

The Board of Commissioners and the Trustees of the Internal Improvement Fund of Florida are hereby given authority to enter into such agreements and make such settlements between them as, in the discretion of said two Boards, may seem just and expedient in the consummation of any such debt refunding or adjustment plans negotiated by said Board of Commissioners.

SECTION 10. That in the event any of the lands described in the above zones shall be or become the property of the United States Government, or under the control, management, and maintenance of the United States Government, the Board of Commissioners is hereby authorized and empowered by resolution of the Board to cancel any and all liens and assessments against such property and to exempt said lands from future Everglades Drainage District taxes.

and assessments, so long as said lands may remain the property or under the control of the United States Government.

SECTION 11. That the Board of Commissioners shall have the power and authority, from time to time, to provide by resolution that the time within which tax sale certificates or other tax liens representing taxes levied for the year 1936 or any prior year, held by such Board, may be redeemed, shall be extended for a total period not to exceed two years from the date that this Act becomes a law, and such redemption may be made within the period of time fixed by such Board by the payment of the principal amount of taxes evidenced by any such tax sale certificate or secured by any such tax lien plus interest thereon, at the rate of eight per centum (8%) per annum, from the date upon which such tax sale certificate was issued or such tax lien became evidenced.

SECTION 12. That in the payment or redemption of any tax sale certificate or tax lien representing taxes levied for the year 1936, or any prior year, held by the Board, bonds and/or matured interest coupons or other obligations of such drainage district shall be receivable at par, and in lieu of money in payment of the sum of money required to be paid in effecting such redemption, except that so much or any part of such sum of money required to be paid as is applicable under the law primarily or solely to maintenance of the works and improvements of the district or to the administration of its affairs shall be payable solely in cash. The fees of public officers chargeable by law in connection with any such redemption shall be paid in cash.

SECTION 17. All laws or parts of laws in conflict herewith are hereby repealed."